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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on 4th August, 2014:—

BILL NO. 88 OF 2014

A Bill further to amend the Securities and Exchange Board of India Act, 1992, the Securities Contracts (Regulation) Act, 1956 and the Depositories Act, 1996.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Securities Laws (Amendment) Act, 2014.

(2) Save as otherwise provided, the provisions of this Act, except clause (ii) of section 5, section 6 to section 16, section 25 to section 33, section 36 and section 41 to section 48, shall be deemed to have come into force on the 18th day of July, 2013.

(3) The provisions of clause (ii) of section 5, section 16, section 33, section 36 and section 48 of this Act shall be deemed to have come into force on the 28th day of March, 2014.

(4) The provisions of section 6 to section 15, section 25 to section 32 and section 41 to section 47 of this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title
and com-
mencement.

CHAPTER II

AMENDMENTS TO THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

Amendment
of section 11.

2. In section 11 of the Securities and Exchange Board of India Act, 1992 (hereafter in this Chapter referred to as the principal Act),—

15 of 1992.

(i) in sub-section (2),—

(a) for clause (ia), the following clause shall be substituted, namely:—

“(ia) calling for information and records from any person including any bank or any other authority or board or corporation established or constituted by or under any Central or State Act which, in the opinion of the Board, shall be relevant to any investigation or inquiry by the Board in respect of any transaction in securities;”;

(b) after clause (ia), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 6th day of March, 1998, namely:—

“(ib) calling for information from, or furnishing information to, other authorities, whether in India or outside India, having functions similar to those of the Board, in the matters relating to the prevention or detection of violations in respect of securities laws, subject to the provisions of other laws for the time being in force in this regard:

Provided that the Board, for the purpose of furnishing any information to any authority outside India, may enter into an arrangement or agreement or understanding with such authority with the prior approval of the Central Government;”;

(ii) after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) The amount disgorged, pursuant to a direction issued, under section 11B of this Act or section 12A of the Securities Contracts (Regulation) Act, 1956 or section 19 of the Depositories Act, 1996, as the case may be, shall be credited to the Investor Protection and Education Fund established by the Board and such amount shall be utilised by the Board in accordance with the regulations made under this Act.”.

42 of 1956.
22 of 1996.

Amendment
of section
11AA.

3. In section 11AA of the principal Act,—

(i) in sub-section (1),—

(a) after the word, brackets and figure “sub-section (2)”, the words, brackets, figure and letter “or sub-section (2A)” shall be inserted;

(b) the following proviso shall be inserted, namely:—

“Provided that any pooling of funds under any scheme or arrangement, which is not registered with the Board or is not covered under sub-section (3), involving a corpus amount of one hundred crore rupees or more shall be deemed to be a collective investment scheme.”;

(ii) in sub-section (2), in the opening portion, for the word “company”, the word “person” shall be substituted;

(iii) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Any scheme or arrangement made or offered by any person satisfying the conditions as may be specified in accordance with the regulations made under this Act.”;

(iv) in sub-section (3),—

(a) after the word, brackets and figure “sub-section (2)”, the words, brackets, figure and letter “or sub-section (2A)” shall be inserted;

(b) after clause (viii), the following clause shall be inserted, namely:—

“(ix) such other scheme or arrangement which the Central Government may, in consultation with the Board, notify,”.

4. In section 11B of the principal Act, the following *Explanation* shall be inserted, namely:—

Amendment
of section
11B.

“*Explanation.*—For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.”.

5. In section 11C of the principal Act,—

Amendment
of section
11C.

(i) in sub-section (8), for the words “the Judicial Magistrate of the first class having jurisdiction”, the words “the Magistrate or Judge of such designated court in Mumbai, as may be notified by the Central Government” shall be substituted;

(ii) after sub-section (8), the following sub-section shall be inserted, namely:—

“(8A) The authorised officer may requisition the services of any police officer or any officer of the Central Government, or of both, to assist him for all or any of the purposes specified in sub-section (8) and it shall be the duty of every such officer to comply with such requisition.”;

(iii) in sub-section (9), for the words “the Magistrate” occurring at both the places, the words “the Magistrate or Judge of the Designated Court” shall be substituted;

(iv) in sub-section (10), for the words “the Magistrate”, the words “the Magistrate or Judge of the Designated Court” shall be substituted.

6. In section 15A of the principal Act, in clauses (a), (b) and (c), for the words “of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less”, the words “which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees” shall be substituted.

Amendment
of
section 15A.

7. In section 15B of the principal Act, for the words “of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less”, the words “which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees” shall be substituted.

Amendment
of section
15B.

8. In section 15C of the principal Act, for the words “of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less”, the words “which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees” shall be substituted.

Amendment
of section
15C.

9. In section 15D of the principal Act,—

Amendment
of section
15D.

(i) in clause (a), for the words “of one lakh rupees for each day during which he sponsors or carries on any collective investment scheme including mutual funds, or one crore rupees, whichever is less”, the words “which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which he sponsors or carries on any such collective investment scheme including mutual funds subject to a maximum of one crore rupees” shall be substituted;

(ii) in clauses (b), (c), (d), (e) and (f), for the words “of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less”, the words “which shall not be less than one lakh rupees but which may extend to one lakh

rupees for each day during which such failure continues subject to a maximum of one crore rupees” shall be substituted.

Amendment
of section
15E.

10. In section 15E of the principal Act, for the words “of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less”, the words “which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees” shall be substituted.

Amendment
of section 15F.

11. In section 15F of the principal Act,—

(i) in clause (a), for the words “a penalty not exceeding five times the amount”, the words, “a penalty which shall not be less than one lakh rupees but which may extend to” shall be substituted;

(ii) in clause (b), for the words “of one lakh rupees for each day during which such failure continues, or one crore rupees, whichever is less”, the words “which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which he sponsors or carries on any such collective investment scheme including mutual funds subject to a maximum of one crore rupees” shall be substituted;

(iii) in clause (c), for the words “of one lakh rupees or five times the amount of brokerage”, the words “which shall not be less than one lakh rupees but which may extend to five times the amount of brokerage” shall be substituted.

Amendment
of section
15 G.

12. In section 15G of the principal Act, for the words “of twenty-five crore rupees or three times the amount of profits made out of insider trading, whichever is higher”, the words “which shall not be less than ten lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of insider trading, whichever is higher” shall be substituted.

Amendment
of section
15H.

13. In section 15H of the principal Act, for the words “of twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher”, the words “which shall not be less than ten lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher” shall be substituted.

Amendment
of section
15HA.

14. In section 15HA of the principal Act, for the words “of twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher”, the words “which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher” shall be substituted.

Amendment
of section
15HB.

15. In section 15HB of the principal Act, for the words “liable to a penalty which may extend to one crore rupees”, the words “liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees” shall be substituted.

Amendment
of section 15-I.

16. In section 15-I of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) The Board may call for and examine the record of any proceedings under this section and if it considers that the order passed by the adjudicating officer is erroneous to the extent it is not in the interests of the securities market, it may, after making or causing to be made such inquiry as it deems necessary, pass an order enhancing the quantum of penalty, if the circumstances of the case so justify:

Provided that no such order shall be passed unless the person concerned has been given an opportunity of being heard in the matter:

Provided further that nothing contained in this sub-section shall be applicable after an expiry of a period of three months from the date of the order passed by the adjudicating officer or disposal of the appeal under section 15T, whichever is earlier.”.

17. After section 15JA of the principal Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 20th day of April, 2007, namely:—

Insertion of new section 15JB.

“15JB. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 11, section 11B, section 11D, sub-section (3) of section 12 or section 15-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

Settlement of administrative and civil proceedings.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under this Act.

(3) The settlement proceedings under this section shall be conducted in accordance with the procedure specified in the regulations made under this Act.

(4) No appeal shall lie under section 15T against any order passed by the Board or adjudicating officer, as the case may be, under this section.”.

18. In section 15T of the principal Act, sub-section (2) shall be omitted.

Amendment of section 15T.

19. In section 26 of the principal Act, sub-section (2) shall be omitted.

Amendment of section 26.

20. After section 26 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 26A, 26B, 26C, 26D and 26E.

“26A. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

Establishment of Special Courts.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

2 of 1974.

26B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Act, 2014 or on or after the date of such commencement, shall be taken cognizance of and tried by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

Offences triable by Special Courts.

2 of 1974.

26C. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Appeal and revision.

2 of 1974.

26D. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed

Application of Code to proceedings before Special Court.

to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

Transitional provisions.

26E. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be taken cognizance of and tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

2 of 1974.

Provided that nothing contained in this section shall affect the powers of the High Court under section 407 of the Code of Criminal Procedure, 1973 to transfer any case or class of cases taken cognizance by a Court of Session under this section."

2 of 1974.

Insertion of new section 28A.

21. After section 28 of the principal Act, the following section shall be inserted, namely:—

Recovery of amounts.

‘28A. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any direction of the Board for refund of monies or fails to comply with a direction of disgorgement order issued under section 11B or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:—

(a) attachment and sale of the person's movable property;

(b) attachment of the person's bank accounts;

(c) attachment and sale of the person's immovable property;

(d) arrest of the person and his detention in prison;

(e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of sections 220 to 227, 228A, 229, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules made thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

43 of 1961.

Explanation 1.— For the purposes of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

Explanation 2.— Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings)

43 of 1961.

Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

43 of 1961.

Explanation 3.— Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under section 15T of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to non-compliance with any direction issued by the Board under section 11B, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression “Recovery Officer” means any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.’.

22. In section 30 of the principal Act, in sub-section (2),—

Amendment
of section 30.

(i) after clause (c), the following clauses shall be inserted, namely:—

“(ca) the utilisation of the amount credited under sub-section (5) of section 11;

(cb) the fulfilment of other conditions relating to collective investment scheme under sub-section (2A) of section 11AA;”;

(ii) after clause (d), the following clauses shall be inserted, namely:—

“(da) the terms determined by the Board for settlement of proceedings under sub-section (2) and the procedure for conducting of settlement proceedings under sub-section (3) of section 15JB;

(db) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.”.

23. After section 34 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
34A.

“34A. Any act or thing done or purporting to have been done under the principal Act, in respect of calling for information from, or furnishing information to, other authorities, whether in India or outside India, having functions similar to those of the Board and in respect of settlement of administrative and civil proceedings, shall, for all purposes, be deemed to be valid and effective as if the amendments made to the principal Act had been in force at all material times.”.

Validation of
certain acts.

CHAPTER III

AMENDMENTS TO THE SECURITIES CONTRACTS (REGULATION) ACT, 1956

42 of 1956.

24. In section 12A of the Securities Contracts (Regulation) Act, 1956 (hereafter in this Chapter referred to as the principal Act), the following *Explanation* shall be inserted, namely:—

Amendment
of section
12A.

“Explanation.— For the removal of doubts, it is hereby declared that power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.”.

Amendment of section 23A.	25. In section 23A of the principal Act, in clauses (a) and (b), for the words “of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less”, the words “which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees” shall be substituted.
Amendment of section 23B.	26. In section 23B of the principal Act, for the words “of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less”, the words “which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees” shall be substituted.
Amendment of section 23C.	27. In section 23C of the principal Act, for the words “of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less”, the words “which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees” shall be substituted.
Amendment of section 23D.	28. In section 23D of the principal Act, for the words “liable to a penalty not exceeding one crore rupees”, the words “liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees” shall be substituted.
Amendment of section 23E.	29. In section 23E of the principal Act, for the words “liable to a penalty not exceeding twenty-five crore rupees”, the words “liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees” shall be substituted.
Amendment of section 23F.	30. In section 23F of the principal Act, for the words “liable to a penalty not exceeding twenty-five crore rupees”, the words “liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees” shall be substituted.
Amendment of section 23G.	31. In section 23G of the principal Act, for the words “liable to a penalty not exceeding twenty-five crore rupees”, the words “liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees” shall be substituted.
Amendment of section 23H.	32. In section 23H of the principal Act, for the words “liable to a penalty which may extend to one crore rupees”, the words “liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees” shall be substituted.
Amendment of section 23-I.	33. In section 23-I of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:— “(3) The Board may call for and examine the record of any proceedings under this section and if it considers that the order passed by the adjudicating officer is erroneous to the extent it is not in the interests of the securities market, it may, after making or causing to be made such inquiry as it deems necessary, pass an order enhancing the quantum of penalty, if the circumstances of the case so justify: Provided that no such order shall be passed unless the person concerned has been given an opportunity of being heard in the matter: Provided further that nothing contained in this sub-section shall be applicable after an expiry of a period of three months from the date of the order passed by the adjudicating officer or disposal of the appeal under section 23L, whichever is earlier.”.
Insertion of new section 23JA.	34. After section 23J of the principal Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 20th day of April, 2007, namely:—
Settlement of administrative and civil proceedings.	“23JA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 12A or section 23-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

15 of 1992.

(3) For the purposes of settlement under this section, the procedure as specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.

15 of 1992.

(4) No appeal shall lie under section 23L against any order passed by the Board or the adjudicating officer, as the case may be, under this section.”.

35. After section 23JA of the principal Act as so inserted, the following section shall be inserted, namely:—

Insertion of
new section
23JB.

‘23JB. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with a direction of disgorgement order issued under section 12A or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:—

Recovery of
amounts.

(a) attachment and sale of the person's movable property;

(b) attachment of the person's bank accounts;

(c) attachment and sale of the person's immovable property;

(d) arrest of the person and his detention in prison;

(e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of sections 220 to 227, 228A, 229, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

43 of 1961.

Explanation 1.— For the purposes of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred, directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

Explanation 2.— Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

43 of 1961.

Explanation 3.— Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under section 23L of this Act.

43 of 1961.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to non-compliance with any direction issued by the Board under section 12A, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression “Recovery Officer” means any officer of the Board who may be authorised, by general or special order in writing to exercise the powers of a Recovery Officer.’.

Amendment
of section
23L.

36. In section 23L of the principal Act, in sub-section (1), after the word, figure and letter “section 4B”, the words, brackets, figures and letter “or sub-section (3) of section 23-I” shall be inserted.

Amendment of
section 26.

37. In section 26 of the principal Act, sub-section (2) shall be omitted.

Insertion of new
sections 26A,
26B, 26C, 26D
and 26E.

38. After section 26 of the principal Act, the following sections shall be inserted, namely:—

Establishment
of Special
Courts.

“26A. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences
triable by
Special
Courts.

26B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Act, 2014 or on or after the date of such commencement, shall be taken cognizance of and tried by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

2 of 1974.

Appeal and
Revision.

26C. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

2 of 1974.

Application
of Code to
proceedings
before Special
Court.

26D. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

2 of 1974.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

2 of 1974.	<p>26E. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be taken cognizance of and tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:</p> <p>Provided that nothing contained in this section shall affect the powers of the High Court under section 407 of the Code to transfer any case or class of cases taken cognizance by a Court of Session under this section.”.</p>	Transitional provisions.
	<p>39. In section 31 of the principal Act, in sub-section (2), after clause (b), the following clauses shall be inserted, namely:—</p> <p>“(c) the terms determined by the Board for settlement of proceedings under sub-section (2) of section 23JA;</p> <p>(d) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.”.</p>	Amendment of section 31.
	<p>40. After section 31 of the principal Act, the following section shall be inserted, namely:—</p> <p>“32. Any act or thing done or purporting to have been done under the principal Act, in respect of settlement of administrative and civil proceedings, shall, for all purposes, be deemed to be valid and effective as if the amendments made to the principal Act had been in force at all material times.”.</p>	Insertion of new section 32. Validation of certain acts.
	<p style="text-align: center;">CHAPTER IV AMENDMENTS TO THE DEPOSITORIES ACT, 1996</p>	
22 of 1996.	<p>41. In section 19 of the Depositories Act, 1996 (hereafter in this Chapter referred to as the principal Act), the following <i>Explanation</i> shall be inserted, namely:—</p> <p>“<i>Explanation.</i>— For the removal of doubts, it is hereby declared that power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.”.</p>	Amendment of section 19.
	<p>42. In section 19A of the principal Act, in clauses (a), (b) and (c), for the words “of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less”, the words “which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees” shall be substituted.</p>	Amendment of section 19A.
	<p>43. In section 19B of the principal Act, for the words “of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less”, the words “which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees” shall be substituted.</p>	Amendment of section 19B.
	<p>44. In section 19C of the principal Act, for the words “of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less”, the words “which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees” shall be substituted.</p>	Amendment of section 19C.
	<p>45. In section 19D of the principal Act, for the words “of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less”, the words “which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees” shall be substituted.</p>	Amendment of section 19D.
	<p>46. In section 19E of the principal Act, for the words “of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less”, the words “which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees” shall be substituted.</p>	Amendment of section 19E.

Amendment
of section
19F.

47. In section 19F of the principal Act, for the words “of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less” the words “which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees” shall be substituted.

Amendment
of section
19G.

48. In section 19G of the principal Act, for the words “liable to a penalty which may extend to one crore rupees”, the words “liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees” shall be substituted.

Amendment
of
section 19H.

49. In section 19H of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) The Board may call for and examine the record of any proceedings under this section and if it considers that the order passed by the adjudicating officer is erroneous to the extent it is not in the interests of the securities market, it may, after making or causing to be made such inquiry as it deems necessary, pass an order enhancing the quantum of penalty, if the circumstances of the case so justify:

Provided that no such order shall be passed unless the person concerned has been given an opportunity of being heard in the matter:

Provided further that nothing contained in this sub-section shall be applicable after an expiry of a period of three months from the date of the order passed by the adjudicating officer or disposal of the appeal under section 23A, whichever is earlier.”.

Insertion of
new section
19-IA.

50. After section 19-I of the principal Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 20th day of April, 2007, namely:—

Settlement
of Adminis-
trative and
Civil
Proceedings.

“19-IA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 19 or section 19H, as the case may be, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

15 of 1992.

(3) For the purpose of settlement under this section, the procedure as specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.

15 of 1992.

(4) No appeal shall lie under section 23A against any order passed by the Board or the adjudicating officer under this section.”.

Insertion of
new section
19-IB.

51. After section 19-IA of the principal Act as so inserted, the following section shall be inserted, namely:—

Recovery of
amounts.

‘19-IB. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with a direction of disgorgement order issued under section 19 or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:—

(a) attachment and sale of the person's movable property;

(b) attachment of the person's bank accounts;

(c) attachment and sale of the person's immovable property;

(d) arrest of the person and his detention in prison;

(e) appointing a receiver for the management of the person's movable and immovable properties,

43 of 1961.

and for this purpose, the provisions of sections 220 to 227, 228A, 229, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1.— For the purposes of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred, directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

43 of 1961.

Explanation 2. — Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

43 of 1961.

Explanation 3. — Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under section 23A of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to non-compliance with any direction issued by the Board under section 19, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression “Recovery Officer” means any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.

52. In section 22 of the principal Act, sub-section (2) shall be omitted.

Amendment
of section 22.

53. After section 22B of the principal Act, the following sections shall be inserted, namely:—

Insertion of
new sections
22C, 22D,
22E, 22F and
22G.

“22C. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

Establishment
of Special
Courts.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences
triable by
Special
Courts.

22D. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Act, 2014 or on or after the date of such commencement, shall be taken cognizance of and tried by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

2 of 1974.

Appeal and
revision.

22E. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

2 of 1974.

Application
of Code to
proceedings
before Special
Court.

22F. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

2 of 1974.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

Transitional
provisions.

22G. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be taken cognizance of and tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

2 of 1974.

Provided that nothing contained in this section shall affect the powers of the High Court under section 407 of the Code to transfer any case or class of cases taken cognizance by a Court of Session under this section.”.

Amendment
of section
23A.

54. In section 23A of the principal Act, sub-section (2) shall be omitted.

Amendment
of section 25.

55. In section 25 of the principal Act, in sub-section (2), after clause (g), the following clauses shall be inserted, namely:—

“(h) the terms determined by the Board for settlement of proceedings under sub-section (2) of section 19-IA;

(i) any other matter which is required to be, or may be, specified by regulations or in respect of which provision to be made by regulations.”.

Insertion of
new section
30A.

56. After section 30 of the principal Act, the following section shall be inserted, namely:—

Validation of
certain acts.

“30A. Any act or thing done or purporting to have been done under the principal Act, in respect of settlement of administrative and civil proceedings, shall, for all purposes, be deemed to be valid and effective as if the amendments made to the principal Act had been in force at all material times.”.

Ord. 2 of
2014.

57. Notwithstanding the fact that the Securities Laws (Amendment) Ordinance, 2014 has ceased to operate, anything done or any action taken or purported to have been done or taken under the provisions of the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act as if such provisions had been in force at all material times.

Validation
and savings.

STATEMENT OF OBJECTS AND REASONS

The Securities and Exchange Board of India Act, 1992 (the SEBI Act) was enacted for the establishment of the Securities and Exchange Board of India (the Board) with the object of protecting the interests of investors in the securities market, to promote the development of, and to regulate, the securities market and for matters connected therewith or incidental thereto.

2. The nature of the securities market and the environment in which it operates is dynamic and the laws governing it have to be responsive to market needs. The governance of the securities market through the Board has withstood the test of time, including judicial scrutiny. However, based on the experience gained over the years, it has become necessary to further strengthen the regulatory provisions to ensure effective enforcement of the securities market related laws while ensuring its orderly development.

3. To protect the interests of investors and to ensure orderly development of securities markets, it has become necessary to enhance the powers of the Board—(a) to call for information not only from the people or entities associated with the securities market but also from persons who are not directly associated with the securities market; (b) to provide for effective protection of investors in cases where there is fraudulent diversion of monies raised from investors; and (c) to monitor collective investment schemes and to ensure that such schemes, which are thriving, at the expense of gullible investors are curbed. Further, in view of large pendency of cases, it is necessary to constitute Special Courts for prosecution of offences under the securities laws to provide speedy trial.

4. As Parliament was not in session and the President was satisfied that immediate action was required to be taken to make necessary amendments to the Securities and Exchange Board of India Act, 1992, the Securities Contracts (Regulation) Act, 1956 and the Depositories Act, 1996, so as to enable the Board to initiate action against illegal deposit taking schemes and to validate the actions taken under the Securities Laws (Amendment) Ordinance, 2013 and the Securities Laws (Amendment) Second Ordinance, 2013, the President had promulgated the Securities Laws (Amendment) Ordinance, 2014 on the 28th day of March, 2014. Since the Securities Laws (Amendment) Ordinance, 2014 has ceased to operate from the 18th day of July, 2014 and it was necessary to give continued effect to the provisions of the earlier Ordinances and the Securities Laws (Amendment) Ordinance, 2014, it has become necessary to introduce the Securities Laws (Amendment) Bill, 2014 in Parliament.

5. The Securities Laws (Amendment) Bill, 2014 *inter-alia*, provides for the following, namely:—

(a) to amend section 11 of the SEBI Act empowering the Board for calling for information and records from any person including any bank or any other authority or board or corporation established or constituted by or under any Central or State Act which, in the opinion of the Board, shall be relevant to any investigation or inquiry by the Board in respect of any transaction in securities;

(b) to insert a new sub-section (5) in section 11 of the SEBI Act to provide that the amount disgorged, pursuant to a direction issued under section 11B of this Act or section 12A of the Securities Contracts (Regulation) Act, 1956 or section 19 of the Depositories Act, 1996, as the case may be, shall be credited to the Investor Protection and Education Fund established by the Board;

(c) to amend section 11AA of the SEBI Act so as to provide that any pooling of funds under any scheme or arrangement, which is not registered with the Board or is not covered under this section, involving a corpus of hundred crore rupees or more shall be deemed to be a collective investment scheme;

(d) to amend sub-sections (8), (9) and (10) of section 11C of SEBI Act so as to provide that instead of Judicial Magistrate of the first class, the Magistrate or Judge of such Designated Court in Mumbai, as may be notified by the Central Government, shall have the jurisdiction to issue an order for the seizure of books, registers, other documents and records;

(e) to amend sections 15A to 15HB of the SEBI Act so as to provide that while imposing monetary penalties, the adjudicating officers have discretion to impose minimum penalties, which shall not be less than one lakh rupees, for contravention of the provisions of the said Act;

(f) to amend section 15-I of the SEBI Act so as to empower the Board to enhance the quantum of penalty imposed by an adjudicating officer, if the order, in the opinion of the Board, is erroneous and not in the interest of the securities market;

(g) to insert a new section 15JB in the SEBI Act so as to provide that any person against whom any proceedings have been initiated under sections 11, 11B, 11D, 12 or 15-I, may file an application before the Board for settlement of the proceedings which shall be conducted in accordance with the procedure specified in the regulations to be made under the SEBI Act;

(h) to establish "Special Courts" for the purpose of providing speedy trial of offences under the SEBI Act;

(i) to insert a new section 28A so as to empower the Recovery Officer to recover the amount, against the persons who fail to comply with any direction of the Board for refund of monies or fail to comply with a direction of disgorgement issued under section 11B or fail to pay any fees due to the Board.

6. It has also become necessary to make certain amendments to the Securities Contracts (Regulation) Act, 1956 and the Depositories Act, 1996 on lines similar to the amendments made to the Securities and Exchange Board of India Act, 1992.

7. The Bill seeks to achieve the above objects.

NEW DELHI;
The 31st July, 2014.

ARUN JAITLEY.

Notes on Clauses

Clause 2.—This clause seeks to amend section 11 of the Securities and Exchange Board of India Act, 1992 (SEBI Act, 1992) relating to the functions of the Securities and Exchange Board of India. It is proposed to amend clause (ia) in sub-section (2) of the said section to enable the Securities and Exchange Board of India to call for information and record from any person in respect of any transaction in securities which needs investigation or inquiry by the said Board. It is further proposed to insert clause (ib) in sub-section (2) of the said section with effect from the 6th day of March, 1998 so as to expressly empower the Board to obtain or furnish information to other regulators abroad who have similar functions to those of the Board, in matters relating to prevention, detection, enforcement and investigation of violations in respect of securities. However, for the purpose of furnishing any information to any authority outside India, a memorandum of understanding shall be signed between the Board and the overseas regulators with the prior approval of the Central Government. It is also proposed to insert a new sub-section (5) in the said section which provides that amount disgorged pursuant to a direction of the Board under section 11B of the Securities and Exchange Board of India Act, section 12A of the Securities Contracts (Regulation) Act, 1956 and section 19 of the Depositories Act, 1996 shall be credited to the Investor Protection and Education Fund established by the Board.

Clause 3.—This clause seeks to amend section 11AA of the SEBI Act, 1992 relating to regulation of Collective Investment Schemes. It is proposed to insert a proviso in sub-section (1) of the said clause, which provides that any pooling of funds under any scheme or arrangement, which is not excluded by sub-section (3) of the said section and which is not registered with the Board, involving a corpus amount of Rs.100 crore or more shall be deemed to be a collective investment scheme. It is further proposed to amend sub-section (2) of the said clause to clarify that any scheme or arrangement made by any person, would fall under the collective investment scheme. It is proposed to insert sub-section (2A) in the said clause, to empower the Board to specify by regulations, additional independent parameters as to what constitutes a collective investment scheme. It is also proposed to insert a new clause (ix) in sub-section (3) of the said clause, to empower the Central Government to exclude, by notification, in consultation with the Board, any scheme or arrangement from falling under the ambit of collective Investment schemes. This is proposed in light of deeming provision inserted in sub-section (1), to ensure that money pooling activities which are otherwise regulated by some other authorities or regulators do not come under the ambit of collective investment schemes to ensure that there are no regulatory overlaps.

Clause 4.—This clause seeks to amend section 11B of the SEBI Act, 1992 relating to power to issue directions. It is proposed to insert an *Explanation* in the said clause so as to clarify that the Board had and shall always be deemed to have had the power to issue disgorgement orders under that section.

Clause 5.—This clause seeks to amend section 11C of the SEBI Act, 1992 relating to investigation. It is proposed to amend sub-sections (8), (9) and (10) of the said section 11C to provide that instead of Judicial Magistrate of the first class, the Magistrate or Judge of such Designated Court in Mumbai, as may be notified by the Central Government shall have the jurisdiction for issue of an order for the seizure of books, registers, other documents and record.

Clause 6.—This clause seeks to amend section 15A of the SEBI Act so as to provide that while imposing monetary penalties, the adjudicating officers have discretion to impose minimum penalties, which shall not be less than one lakh rupees for failure to furnish information, return, etc.

Clause 7.—This clause seeks to amend section 15B of the SEBI Act so as to provide that while imposing monetary penalties, the adjudicating officers have discretion to impose

minimum penalties, which shall not be less than one lakh rupees for failure by any person to enter into agreement with clients.

Clause 8.—This clause seeks to amend section 15C of the SEBI Act so as to provide that while imposing monetary penalties, the adjudicating officers have discretion to impose minimum penalties, which shall not be less than one lakh rupees for failure to redress investors' grievances.

Clause 9.—This clause seeks to amend section 15D of the SEBI Act so as to provide that while imposing monetary penalties, the adjudicating officers have discretion to impose minimum penalties, which shall not be less than one lakh rupees for certain defaults in case of mutual funds.

Clause 10.—This clause seeks to amend section 15E of the SEBI Act so as to provide that while imposing monetary penalties, the adjudicating officers have discretion to impose minimum penalties, which shall not be less than one lakh rupees for failure to observe rules and regulations by an asset management company.

Clause 11.—This clause seeks to amend section 15F of the SEBI Act so as to provide that while imposing monetary penalties, the adjudicating officers have discretion to impose minimum penalties, which shall not be less than one lakh rupees for default in case of stock brokers.

Clause 12.—This clause seeks to amend section 15G of the SEBI Act so as to provide that while imposing monetary penalties, the adjudicating officers have discretion to impose minimum penalties, which shall not be less than ten lakh rupees for insider trading.

Clause 13.—This clause seeks to amend section 15H of the SEBI Act so as to provide that while imposing monetary penalties, the adjudicating officers have discretion to impose minimum penalties, which shall not be less than ten lakh rupees for non-disclosure of acquisition of shares and take-overs.

Clause 14.—This clause seeks to amend section 15HA of the SEBI Act so as to provide that while imposing monetary penalties, the adjudicating officers have discretion to impose minimum penalties, which shall not be less than five lakh rupees for fraudulent and unfair trade practices.

Clause 15.—This clause seeks to amend section 15HB of the SEBI Act so as to provide that while imposing monetary penalties, the adjudicating officers have discretion to impose minimum penalties, which shall not be less than one lakh rupees for contravention where no separate penalty has been provided.

Clause 16.—This clause seeks to amend section 15-I of the SEBI Act so as to empower the Board to enhance the quantum of penalty imposed by an adjudicating officer, if the order, in the opinion of the Board, is erroneous and not in the interest of the securities market.

Clause 17.—This clause seeks to insert a new section 15JA in the SEBI Act, 1992 relating to settlement of administrative and civil proceedings with effect from the 20th day of April, 2007. The said clause explicitly empowers the Board to settle administrative and civil proceedings on payment of such sums or on such other terms as may be determined in accordance with procedures specified in the regulations framed by the Board.

Clause 18.—This clause seeks to omit sub-section (2) of section 15T of the SEBI Act, 1992 as the new provision for settlement of administrative and civil proceedings has been inserted in clause 17.

Clause 19.—This clause seeks to omit sub-section (2) of section 26 of the SEBI Act, 1992, as the new provision for establishment of the Special Courts for trial of offences has been inserted in clause 20.

Clause 20.— This clause seeks to insert new sections 26A to 26E in the SEBI Act, 1992 which deal with the establishment of Special Courts for trial of offences. It is proposed to insert a new section 26A which provides for the establishment of Special Courts by the Central Government in consultation with the Chief Justice of the High Court within whose jurisdiction the Judge is to be appointed. It further provides that the person so appointed as Judge of Special Court shall be one who immediately before such appointment was a Sessions Judge or an Additional Sessions Judge. It is also proposed to insert a new section 26B, which seeks to provide that notwithstanding anything contained in the Code of Criminal Procedure, 1973 all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Act, 2014 or on or after the date of such commencement, shall be taken cognizance and triable only by the Special Courts. It is also proposed to insert a new section 26C which deals with appeal and revision. It also provides that High Courts shall have the power of appeal or revision as if special courts were Court of Session trying cases within the local limits of the jurisdiction of the High Court. It is also proposed to insert a new section 26D which provides that Special Court shall be deemed to be a Court of Session and the provisions of the Code of Criminal Procedure, 1973 shall apply to the Special Court and the person conducting prosecution before the Special Court shall be deemed to be a public prosecutor. It is also proposed to insert a new section 26E which provides that till such time Special Courts are established the existing Court of Session will continue to exercise jurisdiction. However, it shall not affect the powers of High Court to transfer any case.

Clause 21.—This clause seeks to insert a new section 28A in the SEBI Act, 1992 relating to recovery of amounts. This clause empowers the Board, *inter alia*, to attach and sell movable and immovable property of the defaulters without recourse to any court of law and attach bank accounts of defaulters, in case a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any direction of the Board for refund of monies or fails to comply with a direction of disgorgement order issued under section 11B or fails to pay any fees due to the Board.

Clause 22.—This clause seeks to amend section 30 of the SEBI Act, 1992 relating to power to make regulations. It is proposed to amend sub-section (2) of said section so as to empower the Board to make the regulations in matters relating to the utilisation of the amount credited under sub-section (5) of section 11; the fulfilment of other conditions relating to collective investment scheme under sub-section (2A) of section 11AA; the terms determined by the Board for settlement of proceedings under sub-section (2) and the procedure for conducting of settlement proceedings under sub-section (3) of section 15JB; and any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.

Clause 23.—This clause proposes to insert a new section 34A in the SEBI Act, 1992 for validating certain acts.

Clause 24.—This clause seeks to amend section 12A of the Securities Contracts (Regulation) Act, 1956 (SCR Act 1956) relating to power to issue directions. It is proposed to insert an *Explanation* in the said section so as to clarify that the Board had and shall always be deemed to have had the power to issue disgorgement orders under that section.

Clause 25.—This clause seeks to amend section 23A of the SCR Act, 1956 so as to provide that while imposing monetary penalties, the adjudicating officers have discretion to impose minimum penalties, which shall not be less than one lakh rupees for failure to furnish information, return, etc.

Clause 26.—This clause seeks to amend section 23B of the SCR Act, 1956 so as to provide that while imposing monetary penalties, the adjudicating officers have discretion to impose minimum penalties, which shall not be less than one lakh rupees for failure by any person to enter into an agreement with clients.

Clause 27.—This clause seeks to amend section 23C of the SCR Act, 1956 so as to provide that while imposing monetary penalties, the adjudicating officers have discretion to impose minimum penalties, which shall not be less than one lakh rupees for failure to redress investors' grievances.

Clause 28.—This clause seeks to amend section 23D of the SCR Act, 1956 so as to provide that while imposing monetary penalties, the adjudicating officers have discretion to impose minimum penalties, which shall not be less than one lakh rupees for failure to segregate securities or moneys of client or clients.

Clause 29.—This clause seeks to amend section 23E of the SCR Act, 1956 so as to provide that while imposing monetary penalties, the adjudicating officers have discretion to impose minimum penalties, which shall not be less than five lakh rupees for failure to comply with listing conditions or delisting conditions or grounds.

Clause 30.—This clause seeks to amend section 23F of the SCR Act, 1956 so as to provide that while imposing monetary penalties, the adjudicating officers have discretion to impose minimum penalties, which shall not be less than five lakh rupees for excess dematerialisation or delivery of unlisted securities.

Clause 31.—This clause seeks to amend section 23G of the SCR Act, 1956 so as to provide that while imposing monetary penalties, the adjudicating officers have discretion to impose minimum penalties, which shall not be less than five lakh rupees for failure to furnish periodical returns, etc.

Clause 32.—This clause seeks to amend section 23H of the SCR Act, 1956 so as to provide that while imposing monetary penalties, the adjudicating officers have discretion to impose minimum penalties, which shall not be less than one lakh rupees for contravention where no separate penalty has been provided.

Clause 33.—This clause seeks to amend section 23-I of the SCR Act, 1956 so as to empower the Board to enhance the quantum of penalty imposed by an adjudicating officer, if the order, in the opinion of the Board, is erroneous and not in the interest of the securities market.

Clause 34.—This clause seeks to insert a new section 23JA in the SCR Act, 1956 relating to settlement of administrative and civil proceedings with effect from the 20th day of April, 2007. The said clause empowers the Board to settle administrative and civil proceedings on payment of such sums or on such other terms as may be determined in accordance with procedures specified in the regulations framed by the Board.

Clause 35.—This clause seeks to insert a new section 23JB in the SCR Act, 1956 relating to recovery of amounts. This clause empowers the Board, *inter alia*, to attach and sell movable and immovable property of the defaulters without recourse to any court of law and attach bank accounts of defaulters, in case a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any direction of the Board for refund of monies or fails to comply with a direction of disgorgement order issued under section 12A or fails to pay any fees due to the Board.

Clause 36.—This clause seeks to amend section 23L of the SCR Act, 1956 to provide for appeal to the Securities Appellate Tribunal against the orders passed by the Board under sub-section (3) of section 23-I.

Clause 37.—This clause seeks to omit sub-section (2) of section 26 of the SCR Act, 1956 as the new provision for establishment of Special Courts for trial of offences has been inserted in clause 38.

Clause 38.—This clause seeks to insert new sections 26A to 26E in the SCR Act, 1956 which deal with the establishment of the Special Courts for trial of offences under the said Act. It is proposed to insert a new section 26A which provides for the establishment of Special Courts by the Central Government in consultation with the Chief Justice of the

High Court within whose jurisdiction the Judge is to be appointed. It further provides that the person so appointed as Judge of Special Court shall be one who immediately before such appointment was a Sessions Judge or an Additional Sessions Judge. It is also proposed to insert a new section 26B, which seeks to provide that notwithstanding anything contained in the Code of Criminal Procedure, 1973 all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Act, 2014 or on or after the date of such commencement, shall be taken cognizance and triable only by the Special Courts. It is also proposed to insert a new section 26C which deals with appeal and revision. It also provides that High Courts shall have the power of appeal or revision as if special courts were Court of Session trying cases within the local limits of the jurisdiction of the High Court. It is also proposed to insert a new section 26D which provides that Special Court shall be deemed to be a Court of Session and the provisions of the Code of Criminal Procedure, 1973, shall apply to the Special Court and the person conducting prosecution before the Special Court shall be deemed to be a public prosecutor. It is also proposed to insert a new section 26E which provides that till such time Special Courts are established the existing Court of Session will continue to exercise jurisdiction. However, it shall not affect the powers of High Court to transfer any case.

Clause 39.—This clause seeks to amend section 31 of the SCR Act, 1992 relating to power to make regulations. It is proposed to amend sub-section (2) of said section so as to empower the Board to make the regulations in matters relating to the terms determined by the Board for settlement of proceedings under sub-section (2) of section 23JA; and any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations. The said amendment is in addition to the power of the Board to make regulations under the SEBI Act, 1992 and it is consequential to sub-section (2) of section 23JA .

Clause 40.—This clause proposes to insert a new section 32 in the SCR Act, 1956 for validating certain acts.

Clause 41.— This clause seeks to amend section 19 of the Depositories Act, 1996 relating to power to issue directions. It is proposed to insert an Explanation in the said section so as to clarify that the Board had and shall always deemed to have had the power to issue disgorgement orders under the said section.

Clause 42.—This clause seeks to amend section 19A of the Depositories Act, 1996 so as to provide that while imposing monetary penalties, the adjudicating officers have discretion to impose minimum penalties, which shall not be less than one lakh rupees for failure to furnish information, return, etc.

Clause 43.—This clause seeks to amend section 19B of the Depositories Act, 1996 so as to provide that while imposing monetary penalties, the adjudicating officers have discretion to impose minimum penalties, which shall not be less than one lakh rupees for failure to enter into an agreement.

Clause 44.—This clause seeks to amend section 19C of the Depositories Act, 1996 so as to provide that while imposing monetary penalties, the adjudicating officers have discretion to impose minimum penalties, which shall not be less than one lakh rupees for failure to redress Investors' grievances.

Clause 45.—This clause seeks to amend section 19D of the Depositories Act, 1996 so as to provide that while imposing monetary penalties, the adjudicating officers have discretion to impose minimum penalties, which shall not be less than one lakh rupees for delay in dematerialisation or issue of certificate of securities.

Clause 46.—This clause seeks to amend section 19E of the Depositories Act, 1996 so as to provide that while imposing monetary penalties, the adjudicating officers have discretion to impose minimum penalties, which shall not be less than one lakh rupees for failure to reconcile records.

Clause 47.—This clause seeks to amend section 19F of the Depositories Act, 1996 so as to provide that while imposing monetary penalties, the adjudicating officers have discretion to impose minimum penalties, which shall not be less than one lakh rupees for failure to comply with directions issued by Board under section 19 of the Act.

Clause 48.—This clause seeks to amend section 19G of the Depositories Act, 1996 so as to provide that while imposing monetary penalties, the adjudicating officers have discretion to impose minimum penalties, which shall not be less than one lakh rupees for contravention where no separate penalty has been provided.

Clause 49.—This clause seeks to amend section 19H of the Depositories Act, 1996 so as to empower the Board to enhance the quantum of penalty imposed by an adjudicating officer, if the order, in the opinion of the Board, is erroneous and not in the interest of the securities market.

Clause 50.—This clause seeks to insert a new section 19-IA in the Depositories Act, 1996 relating to settlement of administrative and civil proceedings with effect from the 20th day of April, 2007. The said clause empowers the Board to settle administrative and civil proceedings on payment of such sums or on such other terms as may be determined in accordance with procedures specified in the regulations framed by the Board.

Clause 51.—This clause seeks to insert a new section 19-IB in the Depositories Act, 1996 relating to recovery of amounts. This clause empowers the Board, *inter alia*, to attach and sell movable and immovable property of the defaulters without recourse to any court of law and attach bank accounts of defaulters, in case a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any direction of the Board for refund of monies or fails to comply with a direction of disgorgement order issued under section 19 or fails to pay any fees due to the Board.

Clause 52.—This clause seeks to omit sub-section (2) of section 22 of the Depositories Act, 1996, as the new provision for establishment of Special Courts for trial of offences has been inserted in clause 52.

Clause 53.—This clause seeks to insert new sections 22C to 22G in the Depositories Act, 1996 which deal with the establishment of Special Courts for trial of offences under the said Act. It is proposed to insert a new section 22C which provides for the establishment of Special Courts by the Central Government in consultation with the Chief Justice of the High Court within whose jurisdiction the Judge is to be appointed. It is further provided that the person so appointed as Judge of Special Court shall be one who immediately before such appointment was a Sessions Judge or an Additional Sessions Judge. It is also proposed to insert a new section 22D, which seeks to provide that notwithstanding anything contained in the Code of Criminal Procedure, 1973 all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Act, 2014 or on or after the date of such commencement, shall be taken cognizance and triable only by the Special Courts. It is also proposed to insert a new section 22E which deals with appeal and revision. It also provides that High Courts shall have the power of appeal or revision as if Special Courts were Court of Session trying cases within the local limits of the jurisdiction of the High Court. It is also proposed to insert a new section 22F which provides that Special Court shall be deemed to be a Court of Session and the provisions of the Code of Criminal Procedure, 1973 shall apply to the Special Court and the person conducting prosecution before the Special Court shall be deemed to be a public prosecutor. It is also proposed to insert a new section 22G which provides that till such time Special Courts are established the existing Court of Session will continue to exercise jurisdiction. However, it shall not affect the powers of High Court to transfer any case.

Clause 54.—This clause seeks to omit sub-section (2) of section 23A of the Depositories Act, 1996, as the new provision for settlement of administrative and civil proceedings has been inserted in clause 49.

Clause 55.—This clause seeks to amend section 25 of the Depositories Act, 1996 relating to power to make regulations. It is proposed to amend sub-section (2) of said section so as to empower the Board to make the regulations in matters relating to the terms determined by the Board for settlement of proceedings under sub-section (2) of section 19-IA; and any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations. The said amendment is in addition to the power of the Board to make regulations under the SEBI Act, 1992 and it is consequential to sub-section (2) of section 19-IA.

Clause 56.—This clause proposes to insert a new section 30A in the Depositories Act, 1996 for validating certain acts.

Clause 57.—This clause proposes to insert a new clause relating to validation and saving of actions taken or things done during the period of the Securities Laws (Amendment) Ordinance, 2014 which has ceased to operate from the 18th day of July, 2014.

FINANCIAL MEMORANDUM

Clause 20 of the Bill seeks to insert a new section 26A in the Securities and Exchange Board of India Act, 1992 to empower the Central Government to establish or designate as many Special Courts as may be necessary for the purpose of providing speedy trial of offences under that Act.

2. Clause 38 of the Bill seeks to insert a new section 26A in the Securities Contracts (Regulation) Act, 1956 to empower the Central Government to establish or designate as many Special Courts as may be necessary for the purpose of providing speedy trial of offences under that Act.

3. Clause 52 of the Bill seek to insert a new section 22C in the Depositories Act, 1996 to empower the Central Government to establish or designate as many Special Courts as may be necessary for the purpose of providing speedy trial of offences under that Act.

4. The Bill provides that till the Special Courts are established, the offences under the securities laws shall be tried by Sessions Courts having jurisdiction. Upon the Bill becoming an Act, the Central Government may request concerned State Governments to setup Special Courts with its budgetary support. Therefore, there is no immediate financial implication on the Consolidated Fund of India arising from the proposal. The Central Government may, if required, provide budgetary support at a later stage and accordingly, the Department of Expenditure would be approached in accordance with the rules.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill seeks to empower the Securities and Exchange Board of India (Board) to specify by regulations, the utilisation of the amount credited under sub-section (5) of section 11.

2. Clause 3 of the Bill seeks to empower the Board to specify by regulations, the fulfilment of other conditions relating to Collective Investment Scheme under sub-section (2A) of section 11AA.

3. Clauses 17, 39 and 55 of the Bill seek to empower the Board to specify by regulations, the terms determined by the Board for settlement of proceedings.

4. The matters in respect of which regulations may be made are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

P. K. GROVER,
Secretary-General.